

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 2 and 25 of the)	
Commission's Rules to Permit Operation of)	ET Docket No. 98-206
NGSO FSS Systems Co-Frequency with GSO)	RM-9147
and Terrestrial Systems in the Ku-Band)	RM-9245
Frequency Range;)	
)	
Amendment of the Commission's Rules to)	
Authorize Subsidiary Terrestrial Use of the)	
12.2-12.7 GHz Band by Direct Broadcast Satellite))	
Licensees and their Affiliates; and)	
)	
Application of Broadwave USA,)	
PDC Broadband Corporation, and)	
Satellite Receivers, Ltd. to Provide)	
A Fixed Service in the 12.2-12.7 GHz Band)	

To: The Commission

**REPLY COMMENTS OF
THE RURAL TELECOMMUNICATIONS GROUP**

The Rural Telecommunications Group ("RTG"), by its attorneys, respectfully submits these reply comments in response to comments filed pursuant to the Federal Communications Commission's ("FCC" or "Commission") *Notice of Proposed Rulemaking* ("Notice") in the above-captioned proceeding.

RTG limits its comments to the size of the license areas proposed by the Commission and the type of services that may be offered using the FCC's proposed Multichannel Video Distribution and Data Service ("MVDDS"). RTG takes no position on whether the FCC should or should not assign this spectrum via competitive bidding. However, should the Commission select this approach, it must provide for service

flexibility and the smallest possible geographic license areas to ensure that this band is put to productive use in all parts of the country.

I. STATEMENT OF INTEREST

RTG is a group of rural telecommunications providers who have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG's members provide wireless telecommunications services, such as cellular telephone service, Personal Communications Services ("PCS"), and Multichannel Multipoint Distribution Service ("MMDS") to their subscribers. Many of RTG's members also hold Local Multipoint Distribution Service ("LMDS") licenses and have started to use LMDS to introduce advanced telecommunications services and competition in the local exchange and video distribution markets in rural areas. RTG's members are all affiliated with rural telephone companies. RTG members seek access to additional spectrum in order to provide additional services to their customers.

II. COMMENTS

- A. If the Commission Decides to Auction Licenses in the 12.2-12.7 GHz Band, It Should Create Smaller Geographic Area Licenses.

If the FCC determines to award licenses by auction in the 12.2-12.7 GHz band, RTG urges the Commission to consider smaller geographical licenses. Without smaller geographic license areas, the Commission is virtually guaranteeing that rural regions of the country will not see the benefits of services in the 12.2-12.7 GHz band.

The FCC proposes to license the 12.2-12.7 GHz band in Designated Market Areas

(“DMAs”) that will create only 211 licenses in this band.¹ RTG continues to believe that the practice of creating expansive license areas such as DMAs hinders and delays the deployment of advanced services in the nation’s less populated areas. RTG urges careful consideration of the appropriate size of license areas when fashioning service rules so that licensees have the ability and incentive to serve all populations within their service areas.

RTG’s members are particularly interested in the outcome of this proceeding because the spectrum at issue may be extremely useful in rural areas and could possibly allow rural providers to offer entertainment and business video direct to homes and small businesses in a cost-effective manner, and facilitate a broad range of services, including traditional voice telephony and high-speed data and video services.

If the spectrum in this band is auctioned, RTG urges the FCC to adopt rules that establish smaller geographical areas, such as Metropolitan Statistical Areas (“MSAs”) and Rural Service Areas (“RSAs”), which would facilitate opportunities for small and rural carriers to obtain spectrum for their customers. While not as desirable as MSAs and RSAs because there is no metropolitan/rural de-linkage, the Commission could instead license the 12.2-12.7 GHz band in Component Economic Areas (“CEAs”). The 348 CEAs are the building blocks of the 172 Economic Areas (“EAs”). Although CEAs are still much larger than RTG would prefer, their use would be a marked improvement over EAs and DMAs, and would allow additional opportunities for rural telephone companies and other small carriers to offer localized service in this band.

The Commission should avoid auctioning these bands in larger geographical areas, such as DMAs, which are simply too large for small businesses and rural telephone

¹ Notice at ¶ 285.

companies to bid for or effectively serve. If the Commission auctions licenses in the 12.2-12.7 GHz band, it should do so in a manner that encourages the participation of rural and small businesses in the auction and assures that a broad range of new advanced services will be offered in rural areas.²

With RSA or MSA license areas, for example, a small business interested in serving only in a single rural or urban area could bid on the specific area where it wanted to provide service. By auctioning smaller geographical areas, the Commission could facilitate participation by companies that wish to serve a rural area but not a neighboring city. Companies could of course purchase multiple licenses through some form of formal or informal combinatorial bidding to create regional systems.

In contrast, if the FCC auctions the licenses by DMAs, which include rural and urban areas, a higher premium would be placed on the value of licenses due to the urban areas. The accompanying rural area would be unnecessarily tied to the values placed on the urban area. Smaller businesses would face the prospect of bidding on much larger areas than they are able to serve.

While RTG continues to believe that the Commission should adopt the use of secondary market spectrum leasing as quickly as possible³, the Commission should not depend solely on secondary markets to assist rural telecommunication companies and smaller businesses in obtaining a slice of new spectrum. If the FCC relies on post-auction partitioning/disaggregation or leasing of the spectrum to assist rural telecommunication companies and smaller businesses, the FCC would miss out on an opportunity to provide effective rural telecommunications company and small business

² See 47 U.S.C. §§ 309 (j)(3) and 309(j)(4).

³ See Comments and Reply Comments of Rural Telecommunications Group in WTB Docket No. 00-230 filed February 9, 2001 and March 12, 2001, respectively.

participation in the auction itself. As the Commission is well aware, partitioning/disaggregation has not proven to be a popular means of putting unused spectrum to use. Moreover, even if rural telecommunication companies and small businesses could rely on partitioning/disaggregation, they probably would have to pay considerably more to partition a rural area than if the spectrum had been auctioned as a separate license area.

B. The Commission's MVDDS Rules Should be Flexible Enough to Encourage the Development of New Technologies in the 12.2-12.7 GHz Band.

In its *Notice*, the Commission seeks comment on other possible uses of the spectrum for the 12.2-12.7 GHz band other than the video and one-way high speed services proposed by Northpoint.⁴ The Commission states that new MVDDS licensees should have “substantial flexibility” to offer a variety of options for using spectrum to meet the market’s demand.⁵ RTG agrees with the Commission that MVDDS licensees should have the flexibility to offer the services that the marketplace demands. RTG believes that this approach will allow the licensees to maximize the use of the spectrum and bring new and exciting services to their customers. If the Commission limits MVDDS licenses in the 12.2-12.7 GHz band to video and one-way high speed services, licensees in this band would be unable to modify their services offerings in the future to meet the needs of customers. By not limiting the spectrum to any particular use, the FCC will provide for the very “substantial flexibility” it suggests in the *Notice*.⁶

RTG maintains that the Commission should not develop rigid rules that only accommodate certain services. Unnecessary constraints on services that a licensee can

⁴ *Notice* at ¶ 289.

⁵ *Id.*

⁶ The FCC’s goal of allowing “substantial flexibility” to offer a variety of services is in direct opposition to licensing the spectrum in DMAs since the FCC proposal thus presumes that MVDDS is the preferred or required use for this band.

offer in a particular band will only slow the development of the band, wasting valuable spectrum for new and different services. The FCC should ensure that immediate regulatory goals do not hinder the future development of the 12.2-12.7 GHz band. The FCC should allow MVDDS licensees to develop multiple services in any given geographical area as the market demands. If the FCC chooses to limit the services that a MVDDS licensee can provide in any particular service area, the consumer would ultimately suffer.

III. CONCLUSION

If the Commission determines to award licenses in the 12.2-12.7 GHz band by auction, RTG believes that smaller geographical area licenses would allow small businesses and rural telephone companies to bring advanced services to the underserved regions of the country. RTG further believes that the Commission should not limit MVDDS use, but rather allow licensees flexibility to offer the services that the marketplace demands.

Respectfully submitted,

RURAL TELECOMMUNICATIONS GROUP

/s/
Caressa D. Bennet, General Counsel
Brent Weingardt, Regulatory Counsel
Kelvin Reaves, Counsel

1000 Vermont Avenue, N.W.
Washington, D.C. 20005
(202) 371-8857

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